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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,059	06/01/2007	Lena Ehmsen	2003036-US	4618
69289	7590	06/23/2011		
COLOPLAST A/S Attention: Corporate Patents Holtedam 1 DK-3050 Humlebaek, DENMARK			EXAMINER QUINN, RICHAE LEE	
			ART UNIT 3765	PAPER NUMBER
			NOTIFICATION DATE 06/23/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@coloplast.com  
dkbvd@coloplast.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,059	<b>Applicant(s)</b> EHMSEN ET AL.	
	<b>Examiner</b> RICHALE QUINN	<b>Art Unit</b> 3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/8/2011 has been entered.

Claims 1 and 14 were amended. Claims 5-11 are cancelled. Claims 1-4 and 12-14 are currently pending.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Applicant's specification is silent with regard to the terminology "uppermost edge" and "lowermost edge".

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3 and 13 –14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashe et al. (US 2,438,310). The device of Ashe et al. discloses a support garment having an elastically extensible body part (47) having a front panel (47) and a back panel (47) opposite one another and a crotch part (63) interconnected between the front and back panels (Figures 5 and 6). The support garment including a seam (64) connecting the back panel (47) and the crotch part (63) to provide a pouch (Figures 5 and 6) extending from a back portion of the support garment wherein the pouch provides a baggy crotch (65) for the wearer. The seam (64) connecting the back panel (47) and the crotch part (63) intersects a leg opening (Figure 6) of the support garment. The seam is spaced away from the lowermost edge and an uppermost edge of the leg opening (Figure 6). It is noted that at least a portion of the seam (64) is spaced away from the uppermost and lowermost edges of the leg openings (Figure 6). The radius of curvature of a curved edge of the crotch part (63) at the seam (64) is smaller than the radius of curvature of a curved edge of the back panel (47) of the body part at the seam (63: Column 3, lines 57-75 and column 5, lines 53-66). The body part includes a waistband (51) and the curved edge seam (64) of the crotch part is convex relative to the waistband at the rear of the garment (Figure 6). The seam (64) comprises a curved edge of the crotch part (63) attached to a curved edge of the back panel (47) at curved edge (64) and wherein the radius of curvature of the curved edge of the crotch part (63) is different from the radius of curvature of the curved edge of the back panel (47) to provide a baggy zone (65) that extends from the back portion of the garment. A crotch part (63) is

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interconnected (53, 52) between the front panel and the back panel. A seam (64) connects the back panel and the crotch part, the seam formed from a curved edge of the crotch part (63) attached to a curved edge of the back panel (47).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashe et al. in view of Zagame (US 5,613,893). The device of Ashe et al. substantially discloses the claimed invention but is silent with regard to overall pressure. The device of Zagame discloses an undergarment for an abdominal portion of a larger person (Figure 1) that is formed of a material providing compression between 15-50 mmHg on the abdomen (Column 4, lines 22-25). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Ashe et al. by utilizing the compression material taught by Zagame in order to provide additional support to the abdomen (Column 1, lines 1-5).

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over AShet et al. in view of Beaupied (US 4,888,006). The device of Ashe et al.

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substantially discloses the claimed invention but is lacking a hole for a stoma.

The device of Beaupied discloses an undergarment (10) having an aperture (72) for a stoma. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize an aperture for a stoma as taught by Beaupied in order to provide an undergarment that is adaptable to the various needs of the user and support for ostomy while improving self image (Column 1, lines 53-63).

### ***Response to Arguments***

8. Applicant's arguments filed 6/8/2011 have been fully considered but they are not persuasive.

9. Applicant argues that the device of Ashe et al. fails to teach a seam intersecting the leg opening and spaced away from the uppermost and lowermost edges. The device of Ashe et al. discloses a seam that intersects the leg openings and at least a portion of which is spaced apart from the uppermost and lowermost openings (see Figure 6). The rejection is maintained.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHALE QUINN whose telephone number is (571)272-8689. The examiner can normally be reached on M-F 11- 7:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoa Hyun can be reached on 571-272-4888. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Quinn  
Examiner  
Art Unit 3765

/R. Q./  
Examiner, Art Unit 3765

/KATHERINE MORAN/

Primary Examiner, Art Unit 3765